

Taxation

PUBLIC 113 An Act To Improve Security at State Courthouses

LD 1012

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER-SIMPS STRIMLING	OTP-AM	H-173

Public Law 2005, chapter 113 creates the Courthouse Security Fund to be used to improve security and public safety at Maine court facilities.

PUBLIC 169 An Act To Limit Property Tax Abatement for Reasons of Poverty or Infirmary to Applicants' Residential Property

LD 358

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLETCHER	OTP	

Public Law 2005, chapter 169 provides that property tax abatement based on poverty or infirmity may only be granted with regard to a person's primary residence.

PUBLIC 187 An Act To Clarify the Municipal Responsibility To Provide Assessing Information to Property Owners

LD 1244

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HUTTON STRIMLING	OTP-AM MAJ ONTP MIN	H-302

Public Law 2005, chapter 187 requires municipal officials with custodial authority over property tax assessing records to make entire assessment records available in a timely manner to property owners requesting those records.

PUBLIC 218 An Act Concerning Technical Changes to the Tax Laws

LD 1546

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WOODBURY PERRY J	OTP-AM	H-391

Public Law 2005, chapter 218 makes the following changes to the laws governing taxation.

1. It corrects the name of the Department of Administrative and Financial Services, Bureau of Revenue Services in a statute relating to state civil service positions.
2. It clarifies that the fees established for service of tax warrants by sheriffs and deputy sheriffs apply to warrants for all taxes imposed under the Maine Revised Statutes, Title 36.

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3. It provides for the assessment and collection of liabilities arising from failure of a 3rd party to surrender property subject to levy in the same manner as other tax liabilities and clarifies that the rate of interest imposed on liabilities arising from failure of a 3rd party to surrender property subject to levy is the general rate applicable to unpaid taxes. The change establishes progressive enforcement procedures for collecting these debts and incorporates taxpayer protections in the collection process.
4. It relocates the substantive provisions of existing Title 36, sections 1964 and 3240, which relate to priority of tax debts, to the general administrative provisions of Title 36.
5. It extends the due date of the tax incidence report by 3 months from October 1st of each even-numbered year to January 1st of each odd-numbered year. Extending the deadline will ensure that the report is based on the latest economic and revenue forecasts developed for use in the Governor's biennial budget.
6. It expands the provision for inclusion of untaxed real property of widows and children of deceased veterans in the assessor's inventory to include untaxed real property of widowers of deceased veterans. This makes the requirement consistent with changes enacted in 2004 that broadened the veterans' exemption to include property of widowers of deceased veterans.
7. It expands the provision for abatement of property taxes for widows and children of deceased veterans to include widowers of deceased veterans. This makes the abatement provision consistent with changes enacted in 2004 that broadened the veterans' exemption to include property of widowers of deceased veterans.
8. It adds a specific requirement that a person who sells tangible personal property or taxable services in Maine on behalf of the owner must register as a seller and collect and remit Maine sales tax on those sales. This requirement is consistent with the long-standing interpretation of the statutes by the bureau of Maine Revenue Services.
9. It clarifies that provisions relating to certain sales of products for internal human consumption through vending machines are applicable regardless of the form of payment accepted by the vending machines.
10. It clarifies that the sales tax exclusion for sales of furniture, audio media and audio equipment for rental is limited to those circumstances where the subsequent rental is subject to the service provider tax.
11. It clarifies that the storage and use subject to the use tax includes storage and use of property purchased at casual sales, if the sale of that property would be subject to tax.
12. It clarifies that the sales tax exclusion on casual sales of living quarters for less than 15 days does not apply if the seller offers more than one property for rent.
13. It clarifies that a corporation or limited liability company cannot be a nonresident for purposes of the immediate removal exemptions in the sales and use tax law if it is organized in Maine or has its principal place of business in Maine. This is consistent with the long-standing interpretation of the exemption statutes by Maine Revenue Services.
14. It updates the sales and use tax exemption for snowmobiles and ATVs owned by nonresidents for consistency with other existing statutes and establishes a provision to cover registration of property in the State when the owner made actual use of the property outside the State but was not required under the laws of that state to register it for that use.

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15. It clarifies a statute requiring payment of use tax at the time of registration on property required to be registered for use in this State with the Secretary of State or the Commissioner of Inland Fisheries and Wildlife.
16. It deletes unnecessary and ineffective provisions relating to bankruptcy.
17. It repeals a provision relating to priority of taxes that is being relocated to the uniform administrative provisions of Title 36. This provision is inappropriately located in the sales and use tax law since it applies to any tax.
18. It amends the sales tax refund statute to provide for a refund in situations where a retailer has erroneously computed and paid the tax but did not collect the tax from the customer. The change establishes a specific statutory basis for current agency practice. The section also eliminates gender-specific language and makes other grammatical changes.
19. It amends a cross-reference to federal regulations in the definition of "mobile telecommunications services" to make it consistent with federal law.
20. It defines "nonprofit" for purposes of the service provider tax law.
21. It describes more precisely certain acts designated as crimes under the service provider tax law.
22. It clarifies that certain sales of fabrication services for incorporation into real property of an exempt entity are not subject to the service provider tax.
23. It repeals a redundant criminal statute in the motor fuel tax laws.
24. It adds special fuel tax, interest and penalties owed by retailers of low-energy fuels to the list of tax debts designated as personal and recoverable by civil action.
25. It repeals a provision relating to priority of taxes that is being relocated to the uniform administrative provisions of Title 36. This provision is inappropriately located in the motor fuel tax laws since it applies to any tax.
26. It repeals a redundant definition of "person" from the estate tax law. A similar definition exists in the uniform administrative provisions that apply to all taxes.
27. It combines the cigarette tax imposed by Title 36, section 4365 and the additional cigarette tax imposed by Title 36, section 4366-D into a single tax that is equal to the sum of the 2 existing taxes.
28. It simplifies the tobacco products tax law by deleting references to tax rates that are no longer in effect.
29. It repeals a redundant statute related to giving notice under the real estate transfer tax law. The uniform administrative provisions include a similar provision that is applicable to all taxes.
30. It clarifies that individual and corporate income tax modifications related to increased federal expense limitations are based on the expense actually used in the year the asset is placed in service.
31. It clarifies that individual and corporate income tax modifications related to the federal work opportunity credit and the empowerment zone employment credit cannot be claimed more than once.
32. It clarifies the amount of corporate income tax adjustments relating to federal net operating loss carry-backs.

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33. It clarifies the statute of limitations regarding income tax claims for credit or refund to explicitly state that a claim attributable to a net operating loss carry-back must relate to a period for which net operating loss carry-backs are allowed.
34. It replaces a requirement that the Bureau of Revenue Services provide a telefile application under the Maine Residents Property Tax Program with a more general requirement for an electronic filing option. The section also makes various grammatical changes.
35. It consolidates 2 overlapping but inconsistent provisions enacted in 2004 that exclude gambling equipment from reimbursement under the BETR program.
36. It eliminates a requirement that the cost of outreach activities intended to encourage participation in the Maine Residents Property Tax Program must be paid from the amounts appropriated for the program.
37. It clarifies calculation of the estate tax on nonresident estates.
38. It clarifies that a Maine estate tax return is required to be filed whenever the federal gross estate, increased by the amount of adjusted taxable gifts, exceeds the exclusion amount in effect prior to enactment of that federal law.
39. It clarifies the pension exclusion in the State's individual income tax law.
40. It amends the definition for "year for which relief is requested" and calculation of the extension period under the Maine Residents Property Tax Law to reflect changes in the application period enacted in 2004.

PUBLIC 332 An Act To Make Minor Substantive Changes to the Tax Laws

LD 1462

Sponsor(s)
WOODBURY
PERRY J

Committee Report
OTP-AM

Amendments Adopted
H-392
S-232 PERRY J

Public Law 2005, chapter 332 makes the following changes to the laws governing taxation:

1. It authorizes employees of the Department of Administrative and Financial Services, Bureau of Revenue Services to represent the bureau in District Court at arraignments for violation of any criminal provision of the Maine Revised Statutes, Title 36.
2. It amends the definition of "tax" to include any amount assessed by the State Tax Assessor under Title 36.
3. It establishes a civil penalty for persons who are required to file returns electronically and who fail to do so.
4. It permits disclosure of confidential tax information to the Department of Health and Human Services for purposes related to the administration and collection of the new hospital tax and the service provider tax.
5. It corrects the name of the state agency to which information pertaining to the quality child care investment credit may lawfully be disclosed.

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6. It authorizes the Bureau of Revenue Services to provide copies of pass-through entity tax returns to members, officers and certain other related parties of the entity.
7. It permits the Bureau of Revenue Services to disclose whether a person has been issued a resale certificate under the sales and use tax law.
8. It authorizes the Bureau of Revenue Services to disclose to the Department of the Secretary of State, Bureau of Motor Vehicles or the Department of Inland Fisheries and Wildlife, Bureau of Administrative Services whether use tax has been paid on a vehicle or recreational vehicle.
9. It clarifies the State Tax Assessor's authority to require electronic filing of payroll taxes by payroll processors and certain large employers.
10. It extends the period within which a municipality that has experienced a sudden and severe disruption in its municipal valuation may request an adjustment to its equalized valuation. This will give municipal officials requesting an adjustment due to sudden and severe disruption the same filing period as that provided under current law for filing an appeal on the equalized valuation or minimum assessing standards.
11. It changes the basis for establishment of the maximum interest rate that may be charged by municipalities on overdue property taxes from the highest conventional rate on commercial unsecured loans to the prime interest rate plus 3 percentage points.
12. It clarifies that film production qualifies as production for purposes of the sales and use tax and the service provider tax.
13. It provides that a credit for sales tax paid by a retailer on purchases for resale may be claimed on the return filed for the period in which the tax was paid, rather than on the return filed for the period in which the item was sold. If the credit exceeds tax liability, the retailer may receive a refund or carry the credit forward.
14. It decreases the period for requesting an off-road refund under the gasoline tax law from 15 months to 12 months for consistency with similar provisions, clarifies that the 1¢ reduction in the reimbursement applies to each gallon of fuel and that refund applications may be filed for other than monthly periods.
15. It increases the period for requesting a common carrier refund under the gasoline tax or the special fuel tax from 9 months to 12 months for consistency with similar provisions.
16. It decreases the period for requesting an off-road refund under the special fuel tax law from 15 months to 12 months for consistency with other provisions and clarifies that the 1¢ reduction in the reimbursement applies to each gallon of fuel and that refund applications may be filed for other than monthly periods.
17. It requires nonresident taxpayers to include in Maine-source income any winnings from wagering or gambling activities conducted in Maine including 3rd party payments.
18. It clarifies that trusts and entities subject to the franchise tax on financial institutions are not required to withhold Maine income taxes from distributable Maine-source income of nonresident members.
19. It authorizes setoff of income tax refunds against liabilities arising from redeterminations under the Maine Residents Property Tax Program.
20. It bars a refund of overpaid withheld income taxes to a pass-through entity if the overpayment results from income tax actually withheld from members of the pass-through entity and remitted to the Department of Administrative and Financial Services, Maine Revenue Services pursuant to the Maine Revised Statutes,

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Title 36, section 5250-B. Instead, the overpayment is refunded directly to the individual member when that member claims a withholding credit on the member's individual income tax return.

21. It provides for accrual of interest on debts attributable to a redetermination under the Maine Residents Property Tax Program and authorizes setoff of current-year benefits to recover overpayments from prior years. It also clarifies that appeals of redeterminations are governed by Title 36, section 151 and eliminates gender-specific language.
22. It clarifies procedures relating to denial and recovery of excessive claims attributable to fraud or negligence under the Maine Residents Property Tax Program, replaces the special 1% per month rate of interest applicable to these debts with a rate generally applicable to overdue taxes and clarifies that intent is an element of the crime of filing a fraudulent claim for the claimant as well as for the preparer or the supplier of information or an assistant of those persons.
23. It clarifies that compensation received after 2003 from personal services performed in the State prior to 2004 by a nonresident individual is taxable to the State only if the personal services are performed in the State for more than 10 days during the year in which the compensation is received. It further clarifies that compensation received after 2003 for personal services performed after 2003 by a nonresident individual is taxable to the State only if the personal services are performed in the State for more than 10 days during the year in which the compensation was earned.

**PUBLIC 395 An Act To Authorize a Tax Rebate Program for Established
Residents**

LD 135

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GAGNON	OTP-AM MAJ	H-631 WOODBURY
PINEAU	ONTP MIN	S-302

Public Law 2005, chapter 395 permits a municipality to adopt a property tax assistance program for persons with homesteads in the municipality. The property tax assistance program may be made available to all persons with homesteads in the municipality or it may be restricted to persons with homesteads who are at least 62 years of age. The program may provide benefits that are a percentage of the Maine Residents Property Tax Program or that do not exceed 50% of property taxes or rent constituting property taxes or that, together with benefits received under the Maine Residents Property Tax Program, do not exceed 60% of property taxes or rent constituting property taxes.

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**PUBLIC 416 An Act To Encourage Long-term Holding of Maine Timberland
and Sustainable Forest Management**

LD 1305

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLOOD	OTP-AM MAJ	H-403
DAMON	ONTP MIN	

Public Law 2005, chapter 416 provides an income tax deduction to individuals and corporations for the taxable gain on the sale of sustainably managed eligible timberlands held for at least a 10-year period beginning on or after January 1, 2005. The amount of the deduction increases over a 15-year from 1/15th of the taxable capital gain for eligible timberlands held for at least 10 years after 2005 to 100% of the capital gain if the eligible timberlands are held for at least 24 years after 2005.

**P & S 9 An Act To Establish Municipal Cost Components for Unorganized
EMERGENCY Territory Services To Be Rendered in Fiscal Year 2005-06**

LD 1364

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-172

Private and Special Law 2005, chapter 9 establishes municipal cost components for state and county services provided to the unorganized territory that would be paid for by a municipality. The municipal cost components constitute the property tax for the unorganized territory.

Private and Special Law 2005, chapter 9 was enacted as an emergency measure effective May 12, 2005.

**RESOLVE 10 Resolve, Authorizing the State Tax Assessor To Convey the
Interest of the State in Certain Real Estate in the Unorganized
Territory**

LD 450

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY J	OTP-AM	S-69

Resolve 2005, chapter 10 authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the unorganized territory that were acquired for nonpayment of property tax.

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RESOLVE 67 **Resolve, Directing the State Tax Assessor To Adjust the State**
EMERGENCY **Valuation for the Town of Wiscasset**

LD 1584

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RINES DOW	OTP-AM	H-441

Resolve 2005, chapter 67 requires the State Tax Assessor to reduce the 2005 state valuation for the Town of Wiscasset to \$338,600,000 for purposes other than apportionment of county taxes. The reduction is the result of the loss of property tax valuation under a settlement with regard the property of the Maine Yankee Atomic Power Company.

Resolve 2005, chapter 67 was finally passed as an emergency measure effective May 31, 2005.

RESOLVE 110 **Resolve, To Study Adoption of the Streamlined Sales and Use Tax**
 Agreement

LD 1094

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LERMAN		H-603

Resolve 2005, chapter 110 requires the Bureau of Revenue Services to submit a report to the Second Regular Session of the 122nd Legislature by January 15, 2006 that identifies statutory changes necessary to conform to the Streamlined Sales and Use Tax Agreement and the options available to provide conformity. The report must also identify the impact of available options and the fiscal and policy issues associated with conformity. The report must include implementing legislation that, as nearly as possible, Maine's current sales and use tax laws.

RESOLVE 125 **Resolve, To Study the Cost of the Provision of Certain**
EMERGENCY **Governmental Services in the Unorganized Territories**

LD 1636

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE MARTIN	OTP-AM	H-587

Resolve 2005, chapter 125 establishes the Commission To Study the Cost of Providing Certain Services in the Unorganized Territories to study and report to the Legislature on the cost and reimbursement for providing fire protection and preparedness services, land use planning services and education services in the unorganized territories. The report is due December 7, 2005.

Resolve 2005, chapter 125 was finally passed as an emergency measure effective June 23, 2005.